

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

JEFFREY TONEY,

Plaintiff,

v.

THE CLOROX COMPANY,

Defendant.

Case No.: 3:22-cv-5730

State Court Case No.: 22-2-07896-6

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE THAT Defendant The Clorox Company (“Clorox”) hereby removes this action from the Superior Court of the State of Washington, County of Pierce, Case No. 22-2-07896-6 (the “State Court Action”), to the United States District Court for the Western District of Washington, Tacoma Division pursuant to 28 U.S.C. §§ 1332, 1441(a) and (b), and 1446 on the following grounds:

**I. STATEMENT OF JURISDICTION**

This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1332 and 1441(b) because the suit is between “citizens of different States” and the “matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.” As set forth below, this case meets all the statutory requirements for removal and is timely and properly removed by the filing of this Notice.

NOTICE OF REMOVAL - 1

US2008 20741690 1

**KILPATRICK TOWNSEND & STOCKTON LLP**  
1420 5TH AVENUE, SUITE 3700  
SEATTLE, WASHINGTON 98101  
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**II. STATE COURT ACTION**

1. On July 29, 2022, Plaintiff filed the State Court Action, alleging wrongful termination and discrimination based on his race (white), sex (male) and age (over 40) under RCW §49.60.180.

2. On August 31, 2022, Clorox, through its counsel, accepted service of the summons and complaint. Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint and all other processes, pleadings, and orders served upon Clorox in the State Court Action are attached as **Exhibits A through C** to the Declaration of Gwendolyn C. Payton (“Payton Decl.”).

**III. PROCEDURAL REQUIREMENTS FOR REMOVAL**

3. In accordance with 28 U.S.C. § 1446(b)(1), Clorox is filing this Notice of Removal within thirty days from the date service of the Complaint was effectuated on it.

4. Promptly after filing this Notice of Removal, Clorox will give written notice of the removal to Plaintiff’s counsel and to the Clerk of the Court in the State Court Action, as required by 28 U.S.C. § 1446(d).

5. The Superior Court of Washington, Pierce County, is located within the jurisdiction of the Western District of Washington, Tacoma Division. This Notice of Removal is therefore properly filed in this United States District Court pursuant to 28 U.S.C. §§ 1332 and 1441(a) and LCR 3(e)(1).

6. As set forth more fully below, removal is proper under 28 U.S.C. §§ 1332(a) and 1441(a) because (1) there is complete diversity of citizenship; (2) no defendant is a citizen of the State of Washington; and (3) the amount in controversy exceeds \$75,000, exclusive of interests and costs.

**IV. DIVERSITY OF CITIZENSHIP JURISDICTION**

7. “The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between [] citizens of different States,” 28 U.S.C. § 1332, and such cases are explicitly within

1 this Court's removal jurisdiction. 28 U.S.C. § 1441(a).

2 8. Upon information and belief, Plaintiff is a citizen of Washington. (Compl. ¶ 1.1.)

3 9. Under 28 U.S.C. § 1332(c)(1), a corporation is a citizen of the state in which it is  
4 incorporated and the state where it has its principal place of business. Clorox is incorporated  
5 under the laws of the State of Delaware and has its principal place of business in Oakland,  
6 California. (*See* Payton Decl. at ¶ 6.) Therefore, Clorox is a citizen of Delaware and California.  
7 Accordingly, Plaintiff and Clorox are citizens of different states.

### 8 **V. AMOUNT IN CONTROVERSY**

9 10. "[A] defendant's notice of removal need include only a plausible allegation that  
10 the amount in controversy exceeds the jurisdictional threshold." *Dart Cherokee Basin Operating*  
11 *Co., LLC v. Owens*, 574 U.S. 81, 89, 135 S. Ct. 547, 554, 190 L. Ed. 2d 495 (2014).

12 11. "The amount in controversy is determined by the complaint operative at the time  
13 of removal and encompasses all relief a court may grant on that complaint if the plaintiff is  
14 victorious." *Chavez v. JPMorgan Chase & Co.*, 888 F.3d 413, 414–15 (9th Cir. 2018).

15 12. Plaintiff has not plead an amount in controversy. Plaintiff seeks to recover  
16 damages for past and future lost wages and benefits, emotional distress, attorneys fees, and costs.  
17 (*See* Compl. V. Prayer for Relief ¶¶ 5.1-5.7.) Plaintiff's annual base pay prior to his termination  
18 exceeded \$75,000. (*See* Payton Decl. ¶ 7.) Assuming a jury returns a verdict in Plaintiff's favor  
19 on all of his claims, it is more likely than not that the amount in controversy in this case exceeds  
20 \$75,000.

21 WHEREFORE, Clorox hereby removes the State Court Action filed by Plaintiff Jeffrey  
22 Toney from the Superior Court of Washington, Pierce County, to this Court.

23 Dated this 30<sup>th</sup> day of September, 2022.

24  
25 KILPATRICK TOWNSEND & STOCKTON LLP  
26

By /s/ Gwendolyn C. Payton  
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NOTICE OF REMOVAL - 4

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY under the penalty of perjury that on the 30<sup>th</sup> day of September, 2022,  
I served the foregoing NOTICE OF REMOVAL upon the following persons below via:

Chalmers C. Johnson	<input checked="" type="checkbox"/>	by CM/ECF
Longshot Law, Inc.	<input checked="" type="checkbox"/>	by Electronic Mail
PO Box 1575	<input type="checkbox"/>	by Facsimile Transmission
Port Orchard, WA 98366	<input checked="" type="checkbox"/>	by First Class Mail
	<input type="checkbox"/>	by Hand Delivery
	<input type="checkbox"/>	by Overnight Delivery

Dated this 30<sup>th</sup> day of September, 2022.

**Kilpatrick Townsend & Stockton LLP**

By: s/ Gwendolyn C. Payton  
Gwendolyn C. Payton, WSBA #26752  
*Counsel for Defendant The Clorox Company*